

United States Senate

WASHINGTON, DC 20510

June 29, 2000

The Honorable David M. Walker
Comptroller General of the United States
441 G St NW
Washington, D.C. 20548

Dear Mr. Walker:

As you know, the Department of Labor's Occupational Safety and Health Administration (OSHA) has been working on an ergonomics standard for many years. This standard, as currently proposed, would affect millions of workplaces and would cost billions of dollars. Despite continued concerns about the merits of the standard, OSHA is planning on finalizing its standard by the end of this year.

We understand that, in developing its regulation, OSHA may have paid about 70 contractors almost \$2 million to provide a variety of services, ranging from testifying recently at administrative hearings held by OSHA to reviewing the thousands of comments submitted to OSHA in response to the draft standard. We would like to learn more about whether OSHA's use of these contractors complied with applicable laws, or complied with basic standards of integrity and openness. In that respect, we would like GAO to answer the following questions:

- (1) Did OSHA participate in directing witnesses on the drafting, content, and presentation of their testimony, in editing testimony, in preparing witnesses to testify, and similar conduct during the ergonomics rulemaking? What are the documented procedures OSHA has for working with witnesses regarding their testimony? Did OSHA follow such procedures for the ergonomics proceedings?
- (2) What are the practices and standards regarding payment of contractors as witnesses for regulatory agencies? What types and amounts of payments (travel, per diem, other) does OSHA generally give to witnesses? How does this practice compare with OSHA's payments during the ergonomics rulemaking? How do OSHA's practices during the ergonomics rulemaking generally compare with other agencies? Did OSHA's payments to ergonomics witnesses exceed the costs of travel or other costs that are generally paid by other regulatory agencies?
- (3) What are the practices and standards of OSHA and other regulatory agencies regarding public disclosure of the fact that witnesses are paid by the regulatory agency? Did OSHA or its ergonomics witnesses disclose the fact that the witnesses were being paid by OSHA, as well as the amount being paid? To what extent do other agencies or their witnesses generally disclose this information?

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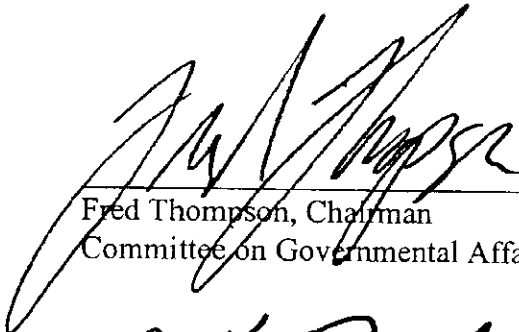
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- (4) To what extent did any of the contractors used by OSHA in the ergonomics rulemaking perform inherently governmental functions?


We anticipate that the Senate will be reviewing all of these issues as we continue to deliberate on the ergonomics issue this year. We are particularly interested in a prompt answer to whether OSHA coached witnesses. As a result, we would like to be briefed on the results of your work on the first set of questions no later than July 24, and to receive a report as soon as possible. We would like a response on the other issues no later than September 1, 2000.

We look forward to working with you. For more information, please contact Paul Noe, Senate Governmental Affairs Committee, at 224- ; Arthur Rosenfeld, Senate HELP Committee, at 224- ; Liz Smith, Senate Subcommittee on Employment, Safety and Training, at 224- ; and Marc Freedman, Senate Small Business Committee, at 224- .

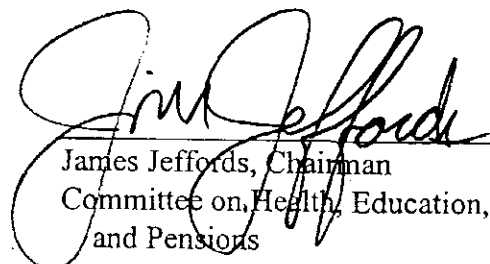
Sincerely,




Fred Thompson, Chairman
Committee on Governmental Affairs



Christopher Bond, Chairman
Committee on Small Business



James Jeffords, Chairman
Committee on Health, Education, Labor
and Pensions



Mike Enzi, Chairman
Subcommittee on Employment, Safety
and Training
Committee on Health, Education, Labor
and Pensions

FT:pm